

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	Criminal No. 18-150(1) (DWF/HB)
)	
v. Plaintiff,)	
)	DEFENDANT'S MOTION TO
MICHAEL HARI,)	SUPPRESS EYEWITNESS
)	IDENTIFICATIONS
Defendant.)	

Michael Hari, through the undersigned attorneys, hereby moves the Court pursuant to Rule 12, Federal Rules of Criminal Procedure, for an Order suppressing any eyewitness identifications of him. Specifically, he moves to suppress an identification that occurred on April 17, 2018 at a store in Arthur, Illinois.

Discovery provided by the government indicates that this identification procedure was a single photographic show-up. This identification procedure was unnecessarily suggestive, and deprived Mr. Hari of due process of law. The Supreme Court established the due-process standard against which police identification procedures are to be measured in *Stovall v. Denno*, 388 U.S. 293 (1967). Courts have found single-photo show-up procedures such as in this case to be unduly suggestive. *United States v. Cueto*, 611 F.2d 1056, 1063 (5th Cir. 1980) (procedure unduly suggestive where witness was shown one photograph of the defendant); *Hudson v. Blackburn*, 601 F.2d 785, 788 (5th Cir. 1979) (observing that “a single photograph display is one of the most suggestive methods of identification and is always to be viewed with suspicion”); *see also Marsden v. Moore*, 847 F.2d 1536, 1545 (11th Cir. 1988) (“There is no question that the pretrial photographic identification procedure, in which Marsden was the only male in the photographs shown

to Gregory, was unduly suggestive.”) (citations omitted). Because this identification procedure was unduly suggestive, Mr. Hari seeks suppression of the identification.

This motion is based upon all of the files and records herein and upon all evidence presented at hearing before the Court.

Dated: July 18, 2019

Respectfully submitted,

s/ Shannon Elkins

SHANNON ELKINS
Attorney No. 332161
Attorney for Defendant
Office of the Federal Defender
107 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

s/ Reynaldo A. Aligada, Jr.

REYNALDO A. ALIGADA, JR.
Attorney No. 319776
Attorney for Defendant
Office of the Federal Defender
107 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415